

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

- against -

JERRY BROOKS,

Defendant.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 6/25/08

ORDER

08 Cr. 35 (PKL)

LEISURE, District Judge:


On June 17, 2008, the Court was informed via telephone message from defendant's counsel Mr. Jason Vichinsky, Esq. that defendant Jerry Brooks terminated representation by co-counsel Mr. Richard Borzouye, Esq. In a letter dated June 25, 2008, Mr. Borzouye moved to withdraw as counsel for defendant (the "Borzouye Motion"). The Borzouye Motion is attached to this Order. On June 25, 2008, the Court was informed that defendant terminated his remaining counsel, Mr. Vichinsky. A letter from Mr. Vichinsky to Assistant United States Attorney Pablo Quinones, Esq. (the "Vichinsky Letter") is attached to this Order. In addition to the Borzouye Motion, in light of defendant's termination of representation by both Mr. Borzouye and Mr. Vichinsky, the Court construes the Vichinsky Letter as a motion to withdraw as counsel. The Court grants a continuance of time for defendant to obtain new counsel. Therefore, as of the date of this Order, the Court will exclude time under the

Speedy Trial Act. See 18 U.S.C. § 3161(h)(1)(F) (excluding time for "delay resulting from any pretrial motion, from the filing of the motion through the conclusion of the hearing on, or other prompt disposition of, such motion"); see also 18 U.S.C. § 3161(h)(8)(B)(iv) (excluding time as a result of an ends-of-justice continuance); United States v. Hammad, 902 F.2d 1062 (2d Cir. 1990) (holding that exclusion of time was proper where counsel informed the court that he intended to withdraw as counsel).

All counsel and defendant himself are hereby ORDERED to appear before the Court at 500 Pearl Street, Courtroom 18B, on July 9, 2008 at 1:30 p.m. for a pre-trial status conference. Defendant's failure to appear can result in the issuance of a bench warrant for his arrest.

SO ORDERED.

New York, New York
June 25, 2008


U.S.D.J.

Copies of this Order have been sent to:

Mr. Jerry Brooks (via certified mail)
Huntsville, Alabama

A.U.S.A. Pablo Quinones, Esq. (via electronic mail)

Mr. Jason Vichinsky, Esq. (via electronic mail)

Mr. Richard Borzouye, Esq. (via electronic mail)

BORZOUYE LAW OFFICES

Richard D. Borzouye, Esquire

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New York, NY 10036

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attorneyborzouye@gmail.com

FAX COVER SHEET

FROM: Richard Borzouye, Esq.

TO: Judge Peter K. Leisure

CO: United States Distrcit Court, SDNY

FAX#: (212) 805-7913

DATE: 6/25/08

RE: U.S. vs. Brooks, 08 cr. 35 (PKL)

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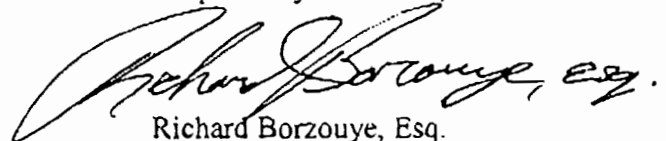
The Honorable Peter K. Leisure
United States District Court, Room 1910
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: United States v. Jerry Brooks, 08 cr. 35 (PKL)

Dear Judge Leisure:

This letter is to formally announce my motion for withdrawal in the above referenced case. As you may be aware from my co-counsel Jason Vichinsky, Esq., Mr. Brooks has terminated me as counsel following the mistrial declared by you on or about June 7, 2008. At the conclusion of the trial, but prior to the mistrial, Mr. Brooks told Mr. Vichinsky on several occasions that if this case was in fact declared a mistrial and a retrial was to follow, that under no circumstances did he want me to represent him any further. Mr. Vichinsky informed me of this each and every time Mr. Brooks said this. He proceeded to make several complaints about me to Mr. Vichinsky and it was apparent that our relationship had deteriorated. Our differences are not just irreconcilable, but beyond repair. This week I received a disturbing letter from Mr. Brooks indicating his displeasure of my representation of him and demanding a full refund of the retainer or he was going to file a complaint against me to the Grievance Committee here in New York. Therefore, due to the facts I have disclosed, it is the wishes of Mr. Brooks that I no longer represent him further and that I have in fact been terminated by him. The Rules of Professional Conduct are clear with respect to withdrawal of counsel. As per Model Rules of Professional Conduct Rule 1.16(a)(3)(c) states, "... a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if the lawyer is discharged.

Respectfully submitted,



Richard Borzouye, Esq.

cc: U.S. Attorney's Office, SDNY



FACSIMILE COVER SHEET

U.S. ATTORNEY'S OFFICE, S.D.N.Y.
ONE ST. ANDREW'S PLAZA
NEW YORK, NEW YORK 10007

From: Pablo Quifiones
Assistant United States Attorney

Phone: (212) 637-2487

Fax: (212) 637-2615

No. pages (including cover sheet):

Date sent: June 25, 2008

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To: The Honorable Peter K. Leisure

Fax: 212-805-7913

Re: U.S. v. Jerry Brooks, 08 Cr. 35 (PKL)

Message: As requested.

JASON H. VICHINSKY***Attorney at Law****51 Lenox Ave.**Apt. 3**East Stroudsburg PA 18301**Office 570-972-0028**Mobile 570-460-7786**Fax 570-421-1200**jhvlaw@yahoo.com*

Pablo Quinones, Esquire

VIA EMAIL Pablo.Quinones@usdoj.gov

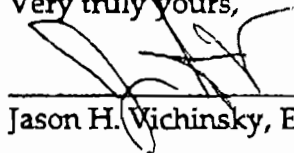
June 24, 2008

Re: *US v. Brooks*
08 Cr. 35

Dear Sir:

Please be advised that the my representation of the above named defendant has been terminated at the client's request. I will be submitting a withdrawal of appearance to the clerk tomorrow. I will perform no further work on this case. Contact me if you have any questions.

Very truly yours,



Jason H. Vichinsky, Esquire